

**Response Under 37 C.F.R. 1.116**

Applicant: Jerald A. Hammann

Serial No.: 09/840,332

Filing Date: April 23, 2001

Docket: H238.101.101

Title: SYSTEM AND METHOD EMPLOYING CAPACITY/DEMAND MANAGEMENT IN HUMAN-FACTOR RESOURCE INDUSTRY

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**REMARKS**

The following remarks are made in response to the Final Office Action mailed March 31, 2010. Claims 31-40 were rejected. With this Response, no claims have been amended. Claims 31-40 remain pending in the application and are presented for reconsideration and allowance.

**In the Title**

Applicant would like to bring to the Examiner's attention the amendments made to the title in the Amendment and Response previously filed December 26, 2005. Applicant would appreciate if the U.S. Patent and Trademark Office could update their database to reflect this title change.

**Claim Rejections under 35 U.S.C. § 103**

The Examiner rejected claims 31-40 under 35 U.S.C. § 103(a) as being unpatentable over the Hailpern et al. U.S. Patent No. 6,922,672 in view of the Hoffman et al. U.S. Patent Application Publication No. 2003/0046120.

The Hoffman et al. publication published on March 6, 2003 and was filed on **March 23, 2001**. The present application was filed on April 23, 2001 claiming priority to U.S. Provisional Patent Application 60/198,816, which was filed on **April 21, 2000**. Thus, the Hoffman et al. publication does not qualify as a reference under 35 U.S.C. § 103/102(e).

Therefore, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. § 103/102(e) rejections to the claims, and request allowance of claims 31-40.

**Double Patenting**

The Examiner provisionally rejected claims 31, 32, 33, 34, 35, and 36-40 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7, 12, 17, 22, and 66-70 of copending Application No. 09/999,378.

The present application was filed on April 23, 2001 claiming priority to U.S. Provisional Patent Application 60/198,816, which was filed on April 21, 2000. The co-pending application

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Serial No. 09/999,378 was filed on October 31, 2001. Since the present application is the earlier filed application of these two pending applications, Applicant respectfully requests that if the below rejections are removed that the provisional double patenting rejection to claims 31-40 based claims 2, 7, 12, 17, 22, and 66-70 of co-pending Application No. 09/999,378 be withdrawn per M.P.E.P § 804 and claims 31-40 be allowed.

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**CONCLUSION**

In view of the above, Applicant respectfully submits that pending claims 31-40 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 31-40 are respectfully requested.

No fees are required under 37 C.F.R. 1.16(h)(i). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

Please consider this a Petition for Extension of Time for a sufficient number of months to enter these papers, if appropriate. At any time during the pendency of this application, please charge any additional fees or credit overpayment to Deposit Account No. 500471.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Any inquiry regarding this Response should be directed to Patrick G. Billig at Telephone No. (612) 573-2003, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

**Dicke, Billig & Czaja**  
Fifth Street Towers, Suite 2250  
100 South Fifth Street  
Minneapolis, MN 55402

Respectfully submitted,

Jerald A. Hammann,

By his attorneys,

DICKE, BILLIG & CZAJA, PLLC  
Fifth Street Towers, Suite 2250  
100 South Fifth Street  
Minneapolis, MN 55402  
Telephone: (612) 573-2003  
Facsimile: (612) 573-2005

Date: June 2, 2010  
PGB:cmj:mlm

/Patrick G. Billig/  
Patrick G. Billig  
Reg. No. 38,080